

REMARKS

Claims 1-8 were pending in the present application. No amendments have been made herein. Claims 1-8 remain pending in the present application.

I. The Claimed Invention is Novel

Claims 1-8 have been rejected under 35 U.S.C. § 102(e) for allegedly being anticipated by Lindstedt et al. (WO 03/051821). Applicants respectfully request withdrawal of the claim rejections, because the Examiner has failed to establish a *prima facie* case of anticipation. The Action does not articulate any reasoning for its rejection or point to a particular section of the cited reference that anticipates claims 1-8. Accordingly, Applicants respectfully request that the Examiner withdraw the claim rejection, or articulate specifically why the cited reference anticipates the claims of the present application.

II. The Claimed Invention is Not Obvious

Claims 1, 2, and 3-8 have been rejected under 35 U.S.C. § 103(a) over WO 03/051821, in view of Mijin et al, *Russian J. Org. Chem.*, 34(10): 1513-14 (1998). Applicants respectfully disagree and request that the claim rejection be withdrawn, because subject matter developed by another person, which qualifies as prior art under 35 U.S.C. § 102(e), shall not preclude patentability under 35 U.S.C. § 103, where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. *See* 35 U.S.C. § 103(c)(1); and *In re Fout*, 675 F.2d 297, 213 U.S.P.Q. 532 (C.C.P.A. 1982).

III. Statement of Common Ownership

In the present case, the cited reference, WO 03/051821, and the present application, U.S. Serial No. 10/560,764, were at the time the invention of the present application was made, jointly owned by AstraZeneca AB.

The above statement is sufficient evidence to establish common ownership. *See* MPEP § 706.02(l)(2). However, Applicants have attached a copy of the face page of WO 03/051821 and

a copy of The Request for Grant of a Patent for United Kingdom Application No. 0314134.8 hereto, as further evidence of common ownership.

IV. Conclusion

In light of the foregoing discussion, Applicants respectfully assert that the claims are in condition for allowance. An early notice of the same is earnestly solicited.

The Commissioner is hereby authorized to debit any fee due or credit any overpayment to deposit account 50-0436.

The Examiner is invited to contact Applicants' undersigned representative at (610) 640-7859 if there are any questions regarding Applicants' claimed invention.

Respectfully submitted,

/Paul K. Legaard, Reg.#38,534/
Paul K. Legaard

Date: **May 22, 2007**

Pepper Hamilton LLP
400 Berwyn Park
899 Cassatt Road
(610) 640-7859
(610) 640-7835